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PATENT APPLICATION

**RESPONSE UNDER 37 CFR §1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER ART UNIT 1654**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Jean-Noel THOREL

Group Art Unit: 1654

Application No.: 10/006,389

Examiner: S. Coe

Filed: December 10, 2001

Docket No.: 108961.01

For: COSMETIC PRODUCTS COMPATIBLE WITH CUTANEOUS ECOLOGY AND
METHOD FOR THEIR USE (AS AMENDED)

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the September 22, 2003 Office Action, reconsideration of the rejection is respectfully requested in light of the following remarks.

Applicant appreciates the courtesies extended to Applicant's representative by Examiner Coe during the January 20, 2004 telephone interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

Claims 1-3, 5-16 and 18-29 are pending. Claims 18-20 are withdrawn from consideration but should be rejoined when a corresponding product claim is found to be allowable.

Claims 1-3, 5, 6 and 21-29 are rejected under 35 U.S.C. §103 over WO 89/05629 to Lask (hereinafter "Lask") and U.S. Patent No. 4,863,897 to Dede et al. (hereinafter "Dede"). Applicant respectfully traverses the rejection.

Claim 1 is directed to a cosmetic or corporal hygiene composition comprising 98-100% by weight biodermal constituents including at least different biodermal constituents, each biodermal constituent being cytocompatible with skin. Neither of the cited references teach or suggest such a cosmetic or corporal hygiene composition.

In particular, Lask is directed to a cosmetic preparation comprising amino acid and/or a term that is translated in the Abstract as "albumin," this term including albumin and collagen. Page 2, lines 8-11. As indicated in the Abstract, the cosmetic composition comprises at least 60 to 100 parts by weight of amino acid and/or "albumin." The cosmetic also contains 10 to 20 parts by weight vitamin E, 0.5 to 2 parts by weight unsaturated fatty acids, at least 3 to 5 parts by weight plant extract, 0.5 to 2 parts by weight polyol, and at least 1 to 3 parts by weight animal hormone or ferment.

Lask does not teach or suggest a cosmetic composition comprising the claimed amount of biodermal constituents. In particular, in the specific example described at the bottom of page 2, Lask teaches a composition comprising biodermal constituents (collagen, vitamin E and vitamin F) in an amount of only 92.9% by weight, 7.1% by weight of the composition comprising non-biodermal constituents (plant extract, glycerin and thymus extract). In the present Office Action, the Examiner argues, however, that polyols and animal hormones can be found in the skin, and therefore a composition within the teachings of Lask can be prepared that contains 97.7% by weight biodermal constituents. However, the Patent Office has provided no basis for the indication that polyols and animal hormones can be found in the skin. In addition, even assuming that there are biodermal polyols and animal hormones, Lask clearly fails to teach or suggest selecting biodermal polyols and animal hormones. Furthermore, although Lask teaches varying the amounts of the components, Lask provides a range within which the amount of each component should be varied. Lask does not provide any motivation to vary the amounts outside of the described ranges. In particular,

Lask does not teach or suggest varying the amounts so as to form a composition comprising 98% by weight biodermal constituents.

Dede does not overcome the deficiencies of Lask. In particular, Dede does not teach or suggest a cosmetic or corporal hygiene composition comprising 98-100% by weight biodermal constituents.

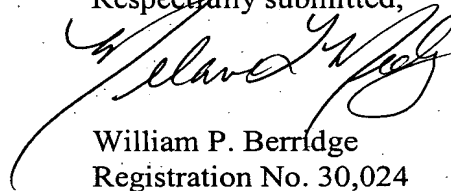
Lask and Dede, each alone or as combined, fail to teach or suggest all of the features of claim 1. Claims 2, 3, 5-16 and 20-29 all depend on claim 1. Therefore, the rejection of claims 1-3, 5-16 and 21-29 should be reconsidered and withdrawn.

It is further noted that the finality of the present Office Action is improper. In particular, claims 2-8, 14-16 and 21, which have not been amended and do not depend on any claim that has been amended, were rejected for the first time under 35 U.S.C. §103 in the present Office Action. Therefore, this new ground of rejection against claims 2-8, 14-16 and 21 was clearly not necessitated by any amendment. As a result, making this new ground of rejection in a final rejection is improper. Therefore, it is respectfully submitted that the finality of the present Office Action should be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Date: January 22, 2004

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